



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-5171



Willard Drew
15 Kimball Road
Gilford, NH 03246

Re: King's Grant Inn Water System
Gilford, NH
EPA #0888210

ADMINISTRATIVE ORDER
No. WD 01-23

July 20, 2001

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Water Division, to Willard Drew pursuant to RSA 485:4 and RSA 485:58. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH 03301.
2. Willard Drew is an individual having a mailing address of 15 Kimball Road, Gilford, NH 03246.

C. STATEMENTS OF FACTS AND LAW

1. RSA 485 authorizes DES to regulate public water supplies. RSA 485:3 authorizes DES to adopt drinking water rules which identify contaminants which may have an adverse effect on health, which establish maximum contaminant levels that are acceptable for human consumption, which establish criteria and procedures to assure compliance with such maximum contaminant levels, and which identify criteria and standards to ensure the proper operation and maintenance of water systems. Pursuant to this authority, DES has adopted NH Admin. Rules Env-Ws 300.
2. Willard Drew is the owner of a water system which serves a hotel consisting of six units and a restaurant which seats an estimated population of 390 located in the community of Gilford, NH ("Water System"). The Water System is a transient, non-community water system as defined in NH RSA 485:1-a, X and NH Admin. Rule Env-Ws 302.02 (bt).
3. NH Admin. Rule Env-Ws 315.01 requires all transient, non-community water systems to monitor for bacteria in accordance with a schedule based on the population served by the system.
4. Former NH Admin. Rule Env-Ws 325.02, now codified as NH Admin. Rule Env-Ws 325.05, requires transient, non-community water systems serving fewer than 1,000 people to submit a minimum of one sample every six months to test for the presence of total coliform

bacteria, and one sample quarterly following the presence of total coliform bacteria in the water sample.

5. Former NH Admin. Rule Env-Ws 325.03, now codified as NH Admin. Rule Env-Ws 325.07, requires a water system which collects one routine sample per month or fewer to collect four repeat samples within 24 hours of notification of a positive bacteria result.

6. Former NH Admin. Rule Env-Ws 325.03, now codified as NH Admin. Rule Env-Ws 325.07, requires a water system which collects one routine sample per month or fewer to collect five routine sample: the month following a positive bacteria result.

7. NH Admin. Rule Env-Ws 351.01 requires the owner of a water system who fails to submit any of the routine samples requires by Env-Ws 325 to notify persons served by the system within 21 days of the failure to sample. Within 30 days of the failure to sample, the system must provide proof of such public notice to DES.

8. Due to the presence of total coliform bacteria in its September 1993 water sample, the Water System is required to routinely collect one sample every quarter during the scheduled sampling months of March, June, September, and December.

9. The Water System failed to submit a routine total coliform sample for March 1999 and March 2000 and failed to provide public notice for the March 2000 monitoring violation.

10. On or about August 23, 2000, Letter of Deficiency No. 00-79 ("August 2000 LOD") was issued to the Water System. The August 2000 LOD addressed the major monitoring/reporting violations that occurred in March 1999 and March 2000 and the corresponding failure to provide proof of public notice for the March 2000 public notice violation.

1. The August 2000 LOD requested the Water System to do the following:

a. by September 10, 2000, and thereafter in the scheduled months of December, March, June, and September, submit samples for bacterial analysis to the state laboratory or a state-certified laboratory;

b. by September 15, 2000, carry out the public notice requirements for the March 2000 major monitoring/reporting violation; and

c. by September 22, 2000, provide proof of public notice to DES.

12. The August 2000 LOD was received by the Water System as evidenced by the signed postal receipt.

13. The Water System submitted to DES proof of public notice for the March 2000 sampling violation and the September 2000 total coliform sample, which tested positive for bacteria.

14. On September 29, 2000, DES issued the Water System a "Notice of Positive Results" letter which requested the Water System to submit four repeat samples within 24 hours of the receipt of the letter and five routine samples the following month.

15. The Water System failed to submit the required four repeat samples and submitted only one of the five required routine samples in October 2000.
16. The Water System failed to submit a routine total coliform sample for December 2000 and March 2001.

D. DETERMINATION OF VIOLATIONS

1. The Water System has violated NH Admin. Rule Env-Ws 325.05 by failing to submit water samples for total coliform analysis in March 1999, March 2000, December 2000 and March 2001.
2. The Water System has violated NH Admin. Rule Env-Ws 325.07 by failing to collect four repeat samples within 24 hours of notification of a positive bacteria result in September 2000 and by failing to collect at least five routine total coliform samples in October 2000 following the positive bacteria result in September 2000.
3. The Water System has violated NH Admin. Rule Env-Ws 351.01 by failing to provide proof of public notice to DES within 30 days of the failure to sample for total coliform bacteria in December 2000 and March 2001.
4. As owner of the Water System, Willard Drew is responsible for the violations noted herein.

E. ORDER

Based on the above findings, DES hereby orders Willard Drew as follows:

1. Within 15 days of the date of this Order, submit a total coliform sample to a laboratory certified to perform total coliform analysis. Within 10 days of completion, submit total coliform results to DES.
2. Within 15 days of the date of this Order, notify water consumers of the failure to sample for total coliform bacteria in October 2000, December 2000, and March 2001, and the failure to submit repeat samples in September 2000.
3. Within 20 days of the date of this Order, submit proof of public notice required above to DES along with a cover letter indicating how, when, where, and by whom the public notice was given.
4. Between September 4, 2001, and September 17, 2001, submit a routine sample for bacterial analysis to the DES laboratory or state-certified laboratory for analysis.
5. Between December 3, 2001, and December 14, 2001, submit a routine sample for bacterial analysis to the DES laboratory or a state-certified laboratory for analysis.

Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Linda Magoon, Program Specialist
Department of Environmental Services
6 Hazen Drive, PO Box 95
Concord, NH 03302-0095
Voice: (603) 271-0672
Fax: (603) 271-3490


F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Water Council by filing an appeal that meets the requirements specified in Env-WC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve Willard Drew of the obligation to comply with the Order.

G. OTHER PROVISIONS


Please note that RSA 485:58 provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. Willard Drew remains obligated to comply with all applicable requirements, in particular the need to (1) submit a total coliform sample to a laboratory certified to perform total coliform analysis in the scheduled sampling months of March, June, September, and December and (2) to comply with applicable drinking water statutes and rules. DES will continue to monitor Willard Drew's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Belknap County Registry of Deeds so as to run with the land.


Harry T. Stewart, P.E., Director
Water Division


Robert W. Varney, Commissioner

Certified Mail/RRR: 7099 3400 0003 0692 4055

cc:  Gretchen Rule, DES Enforcement Coordinator
Public Information Officer, DES PIP Office
NH AGO
Belknap County Registry of Deeds
David Andrade, Town of Gilford Health Officer
US EPA, Region 1